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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,433	07/22/2003	Doug Bender	1970-0006	6426
60533	7590	06/30/2008	EXAMINER	
TOLER LAW GROUP			DUONG, DUC T	
8500 BLUFFSTONE COVE				
SUITE A201			ART UNIT	PAPER NUMBER
AUSTIN, TX 78759			2619	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/624,433	<b>Applicant(s)</b> BENDER ET AL.	
	<b>Examiner</b> Duc T. Duong	<b>Art Unit</b> 2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12-26 and 35-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-26 and 35-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 23, 2008 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 12-26 and 35-44 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 35-44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding to claim 35, there does not appear to be a written description of the claimed limitations "the memory comprising instructions". As such, the claim fails to

provide enablement the requirement. Claims 36-44 are also rejected since they depend from claim 35 and contain the same deficiency.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12, 13, 17-20, 35, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bollinger et al (US Patent 7,113,500 B1) in view of Smith et al (US Patent 6,934,258 B1).

Regarding to claims 12 and 35, Bollinger discloses a system for routing a telephone call over a voice and data network 18 (fig. 2), the system comprising receiving, at a telecommunication gateway TCG 16 associated with a called telephone number, a call directed to the called telephone number; (fig. 4 col. 12 lines 7-11); determining whether the call is a voice and data network VDN call (fig. 4 col. 12 lines 11-24); when the call is a VDN call, converting the call into a format compatible with the voice and data network (col. 1 lines 43-47) and transfer the converted call to a destination device 20 via the voice and data network (fig. 2 col. 5 lines 11-24); and when the call is not a VDN call, connecting the call to a telephone associated with the called telephone number (fig. 4 col. 12 lines 62-col. 13 lines 1-3).

Bollinger fails to teach a telephone is physically connected to the gateway.

However, Smith discloses a VOIP communication system a telephone 32 is connected directly to the gateway 30 (fig. 1-2 col. 4 lines 44-57).

Thus, it would have been obvious to a person of ordinary skill in the art to employ such telephone and gateway arrangement as taught by Smith into Bollinger's system for a faster call set-up without the need of network provider intervention.

Regarding to claim 13, Bollinger discloses the calling device is a plain old telephone (fig. 1 col. 1 lines 34-43).

Regarding to claim 17, Bollinger discloses transferred the call the to destination device via PSTN (fig. 4 col. 12 lines 50-65).

Regarding to claims 18 and 42, Bollinger discloses the voice and data network is Internet (col. 1 lines 14-21).

Regarding to claim 19, Bollinger discloses receiving a VDN call designator and determining whether the VDN designator is received (col. 6 line 59-col. 7 line 25).

Regarding to claim 20, Bollinger discloses the VDN designator includes information indicating selection of one or more keys at a telephone keypad (col. 7 line 25-col. 8 line 10).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bollinger and Smith in view of Galvin et al (US Patent 6,351,464 B1).

Regarding to claims 14 and 15, Bollinger and Smith disclose all the limitations with respect to claim 12, except for the calling device is a mobile device such as a wireless telephone and that a call from it would be routed to PSTN prior to the TCG. However, Galvin discloses a telecommunication system for routing a call from a mobile device 10 to a data device 18 via PSTN network 14 prior to routing the call to the Internet telephone gateway 28 (fig. 1 col. 4 lines 39-65). Thus, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to employ a calling device as mobile device as taught by Galvin into Bollinger and Smith's system for communication with wireless networks.

8. Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bollinger and Smith in view of Chang et al (US Patent 6,700,956 B2).

Regarding to claims 21-22, Bollinger and Smith disclose all the limitations with respect to claim 12, except for determining whether a voice and data network designator is present in the calling code, wherein the designator is a tone produced by prompting the calling party entering the “#” key on a telephone keypad.

However, Chang discloses an apparatus and method for the caller to select which networks, PSTN or Internet, to establish the call; wherein for internet call the caller is prompt to enter the “#” on the telephone keypad (fig. 5 col. 4 lines 41-58).

Thus, it would have been obvious to a person of ordinary skill in the art to employ such entering of keystroke on the telephone keypad as taught by Chang into Bollinger and Smith's system to provide a simple mechanism to toggle between the PSTN networks and Internet telephony service.

9. Claims 23-26 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bollinger and Smith in view of Smyk (US Patent 6,597,686 B1).

Regarding to claim 23-26 and 40, Bollinger and Smith disclose all the limitations with respect to claim 1, except for determining whether a calling party of the call is authorized to make a VDN call prior to transferring the converted call to the destination device via the voice and data network (claim 23); capturing called ID data associated the call (claim 24); determining the destination device before transferring the converted call to the destination device, wherein the determining is performs by sending a dialing signal to a calling device and receiving a calling code associated with the destination device from the calling device (claim 25); and using the calling code to address data packets to the destination device (claim 26)

However, Smyk discloses an apparatus and method for Internet telephony routing, wherein authorization of the calling's party to access a telephone service network is verify via capturing the calling party's identification and once the verification is completed, the call is routed to the called party based on the destination number entered by the calling party and the telephone service carrier selected by the calling parrrty (fig. 3-4 col. 5 lines 15-43).

Thus, it would have been obvious to a person of ordinary skill in the art to employ such authorization step via caller ID and determining a calling code step as taught by Smyk into Bollinger and Smith's system to prevent unauthorized access and use of the network resources, as well as, provided alternative routing based on least cost of calls.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is (571)272-3122. The examiner can normally be reached on M-F (8:00 AM-5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on 571-272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. T. D./  
Examiner, Art Unit 2619

/Wing F. Chan/  
Supervisory Patent Examiner,  
Art Unit 2619, 6/23/08